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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 3 February 1992, at 10 a.m.

Chairman: Mr. SOLT (Hungary)

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The meeting was called to order at 10.10 a.m.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1992/8; E/CN.4/1991/10; A/46/401)

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/Sub.2/1991/13 and Add.1)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 14) (continued) (E/CN.4/1992/39 and 42 and Add.1; E/1991/39; A/C.3/46/2)

1. Mr. BLACKWELL (United States of America) said that, in the long history of oppression on Earth, few forms of government had been as reprehensible as apartheid, a system that denied persons their most basic human rights solely because of the colour of their skin. It was a system that was abhorrent to any decent human being and, along with all the other failed experiments of the century that promised justice but delivered repression and suffering, it should be consigned to the dustbin of history.

2. The Commission was meeting at a time when apartheid was at long last being dismantled and, with good will among all South Africans, it would soon be replaced by a just and democratic system in which South Africans of all races would be able to participate equally. Over the previous year, the situation in the country had changed dramatically. Preliminary talks, which some thought would never have materialized, had begun between the Government, the ANC and other organizations with the aim of reaching agreement on a non-racial constitution. Credit for that development should go to the De Klerk Government, for beginning to move away from generations of injustice, and to the ANC and others, for entering a process of peaceful dialogue despite years of oppression.

3. It was clear that there could be no turning back. South Africa had begun an irreversible journey not only to a new form of society, but also to a new relationship among its peoples. The vast majority of South Africans, black and white, were ready to embark on that journey, which they hoped would be peaceful and democratic and which would lead to a new South Africa for all.

4. His Government supported the negotiations in South Africa and stood ready to assist the parties involved in any way that it could. As the experience of his own country had demonstrated, the removal of institutionalized racism would not by itself lead to a new age of brotherhood. That required a change in the human heart as well as in civil society. It would, however, be a turning-point for South Africa as important as any in its long and painful history.

5. While much progress had already been made, much still remained to be done. The most important fact was that the South African Government had rejected the policy of apartheid and was moving to dismantle it.

Municipalities were prohibited from practising racial discrimination, blacks were permitted to own property and to reside anywhere in the country, newborn South Africans were no longer registered by race, political prisoners had been released, and there was unprecedented freedom of expression and political debate.

6. Despite that progress, however, the task was far from over. Blacks continued to suffer from the socio-economic effects of years of legalized discrimination and isolation. Although the major legislative pillars of apartheid had been repealed in 1991, many of the daily realities of apartheid persisted. Moreover, although negotiations on a non-racial constitution were beginning, the vast majority of the people of South Africa were still deprived of a basic human right - the right to vote.

7. The process of redressing those wrongs was, however, under way. While the details of a new constitution were up to South Africans to negotiate, his Government was confident that the final settlement would reflect the principles contained in the Universal Declaration of Human Rights. It believed that a multiparty, democratic South Africa, whose Government was based on the principle of equal representation on a non-racial basis and in which constitutional protection was provided for all South Africans, offered the best hope for a better future. There was already consensus among the negotiating parties in South Africa that those principles must be reflected in the new constitution.

8. As the negotiations continued, international encouragement for the process would be more important than ever. His delegation took the view that a consensus resolution, like those adopted by the General Assembly over the previous three years, was one good way of nudging the negotiations forward towards the final goal of a democratic and non-racial South Africa. If it was to be of any value, such a resolution must promote the negotiating process by encouraging all parties in South Africa to look to the future. It was of no value for the international community to send mixed signals to the parties, who should not be encouraged in one forum and vilified in another. The Commission should therefore be consistent with the General Assembly in encouraging negotiations.

9. Important as resolutions were, however, more must be done to help build the new South Africa. The prospect of apartheid's demise made it incumbent upon all those who had - quite correctly - condemned apartheid in the past to match their concern with action to help black South Africans participate fully in a society that for far too long had shut them out. While that was not a task for Governments alone, his own Government had pledged to play its part and had committed itself to doubling to $80 million its assistance to black South Africans to help them regain lost ground.

10. His Government also supported international efforts to rectify past wrongs. For example, it had helped to fund the agreement between the South African Government and the United Nations High Commissioner for Refugees to provide for the return to South Africa of tens of thousands of exiles. His delegation commended the others who had also pitched in to help build a post-apartheid society.

11. Despite the importance of constitutional reform, law alone would not suffice. Blacks must have a stake in the economy as well as a vote at the ballot-box, and the economy must be helped to grow and diversify in order to meet the needs of the future. There were persons of good will in South Africa who were working to help meet those needs and they deserved a helping hand to enable them to finish the job.

12. He wished to conclude by injecting a personal note. The civil rights movement led by Dr. Martin Luther King had helped make it possible for him, a black, to head the United States delegation to the Commission's session. The dream of Martin Luther King was that men should be judged by the content of their character and not by the colour of their skin. That was not just for citizens of the United States, and the entire international community should help to make that dream come true.

13. Mr. de SANTA CLARA GOMES (Portugal), speaking on behalf of the European Community and its member States, said that the Community had been encouraged by the significant and visible changes that had occurred in South Africa during the previous year, such as the repeal of the legal pillars of apartheid and the cooperation that had been established between South Africa and the United Nations High Commissioner for Refugees. It also welcomed the holding of the first plenary session of the Convention on a Democratic South Africa (CODESA), which represented a step towards reconciliation and a milestone on the road of national political dialogue. The Community welcomed, in particular, the agreement on a joint declaration of intent which committed the parties to uphold human rights.

14. The results of the first plenary session were important since all the parties concerned had expressed their commitment to negotiate a new constitutional framework for a united, democratic and non-racial South Africa, in which every individual would have the right to take part in the conduct of public affairs and to vote. The European Community was aware of the difficulties involved in that process and wished to express its support for the continuation of negotiations between the Government and all sectors of South African society.

15. In the view of the Community, respect for human rights, the rule of law, and the existence of democratic political institutions were the foundations for equitable development. Having regard to that principle, and in order to encourage a constructive dialogue in South Africa, the Community's member States had decided to ease some of their restrictive measures with a view to stimulating economic growth, which was an important factor in strengthening the foundations of a democratic society.

16. While encouraged by developments in South Africa, the European Community would continue to monitor closely the human rights situation, including the question of political prisoners. It noted, in particular, that the system of homelands had yet to be abolished and that the practical effects of long-term discrimination persisted.

17. The continuing violence and tension, and the evidence of human rights abuses, deserved special attention from the international community. The European Community had condemned all use of violence and had appealed to

those parties which had not yet agreed to participate in the negotiations to reconsider their position and to join the process. It was to be hoped that practical steps would continue to be taken to promote national reconciliation through dialogue and to establish a lasting peace in South Africa.

18. Mr. HESSEL (France) said that his delegation, which was deeply concerned at the growing manifestations of racism, xenophobia and intolerance, had noted with interest the appeal by the International Commission of Jurists on behalf of a number of non-governmental organizations for strict implementation of the standards contained in international instruments dealing with human rights and the campaign against racial discrimination. The expression of national sentiment, when the purpose was to restore the cultural identity of a people or strengthen its civil, political, economic and social rights, was eminently respectable, but when, as in the case of Yugoslavia, it led to a murderous civil war, it was reminiscent of the situation in the 1930s and the terrible consequences that had stemmed from the growth of extremist nationalisms.

19. There had, however, been a number of positive developments. The constitutional pillars of the odious institution of apartheid had been overthrown. The referendum announced by President De Klerk would be of value, however, only if it was based on the democratic principle of "one person-one vote". In that context, his Government fully endorsed the statement on the question of apartheid just made by the Portuguese delegation on behalf of the European Community.

20. The repeal by the General Assembly at its forty-sixth session of resolution 3379/XXX equating zionism with racism was an event of capital importance. That text had been an error and a scandal and had hurt the credibility of the United Nations in its efforts to combat racism.

21. Another positive development had been the amendment in January 1992 of the International Convention on the Elimination of All Forms of Racial Discrimination and the decision that the expenses of the Committee on the Elimination of Racial Discrimination could be financed from the regular budget of the United Nations, so that the Committee would finally be able to carry out its duties. It was to be hoped that that positive and realistic measure would be approved by the General Assembly at its forty-seventh session.

22. The fight against racism was not solely a matter for the international community. The primary responsibility for that campaign was borne by each and every State. His Government had never sought to pass over in silence the manifestations of racism that French citizens or foreigners sometimes encountered on its territory. The latest annual report of the French National Human Rights Advisory Commission, a pluralist and independent body, painted a picture that was full of contrasts: the number of cases of racist violence had not increased noticeably, but verbal manifestations of racism (graffiti, insults and threats) were on the rise. The Commission had found that the victims of such forms of racism were mainly French citizens or foreigners of North African origin. As migrant workers and their families were particularly likely to be the targets, his Government had made their harmonious integration into French society a matter of priority. There was no inevitability about such developments, and his Government was seeking to combat them by means of a set of preventive and punitive measures, which had recently been strengthened.

23. Faced with the need to take energetic measures to combat racist and xenophobic statements, some people had asked how far they could go without violating the freedoms of expression or association. The Minister of Justice had recently given a clear answer to that question in a speech to the French National Assembly, stating that racism was not an opinion, but an unprovoked assault.

24. Mr. HELLER (Mexico) said that it was unacceptable that, at the end of the twentieth century, the people of South Africa still did not fully enjoy their economic, social, cultural, civil and political rights. In keeping with the relevant resolutions of the General Assembly, Mexico maintained no economic, financial, commercial or other relations with South Africa and had supported the imposing of comprehensive and mandatory sanctions on the Pretoria regime.

25. A gradual reform process had developed in South Africa over the past two years, which his delegation hoped was irreversible. Nelson Mandela had been released, the ban on the African National Congress and other political organizations had been lifted, a number of apartheid laws had been repealed, a dialogue had begun on creating a new South Africa, political prisoners had been released, and the state of emergency had been lifted. There was still, however, a whole body of discriminatory laws, and efforts continued to be made to foment interethnic violence. It was to be hoped that President De Klerk's commitment to move forward towards a democracy for all South Africans, regardless of race, would produce practical results.

26. As pointed out in the report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1992/8), the administrative and political structure of the so-called "homelands" in its current form constituted an aspect of apartheid that had still not been modified. His delegation agreed with the Working Group's conclusion that the reform or abolition of the apartheid laws did not automatically mean that racism and racial discrimination had been abolished. It shared the hope expressed that the Government of South Africa would allow the Working Group to visit the country to see what progress had been made towards eradicating apartheid in all its forms.

27. Referring to agenda item 14, he said that, while the debate on racism and racial discrimination had for years focused on the process of decolonization and the persistence of apartheid in South Africa, the world was currently witnessing a dangerous resurgence of racism, intolerance, xenophobia and nationalism in their worst forms, particularly in the developed countries. That phenomenon was too dangerous to disregard, and the Member States of the United Nations must commit themselves to developing effective measures to combat it.

28. Mr. ZAHRAN (Observer for Egypt) said that, during its consideration of apartheid at its forty-seventh session, the Commission had been optimistic that the changes taking place in South Africa would bring about a new regime of greater equality which would guarantee the civil and political rights of the black majority. Nevertheless, one year after the legislative changes introduced by President De Klerk and two years after the beginning of the policy of liberalization in South Africa, a number of doubts still persisted.

Those doubts concerned the real exercise of democratic freedoms; how the economic resources of the country were being distributed; the question of social peace; and the role of the Executive in ensuring peace and security for all citizens.

29. His delegation welcomed the positive steps taken by the South African Government to bring about social peace and security. It was particularly heartened by the agreements signed in September 1991 between the Government of South Africa and UNHCR regarding the voluntary return of refugees to South Africa, as well as the recent agreement between the Government and black political parties and other groups to promote national reconciliation. Nevertheless, a number of negative factors and dangerous trends persisted. While he did not propose to comment in detail on the numerous reports of violations of human rights in South Africa, there certainly appeared to be contradictions between the hopes expressed and the realities of the situation on the ground. The international community must therefore assume its responsibilities and draw up a plan of action outlining clear steps to put an end to the apartheid regime and to lay the foundations of a new society for the benefit of all its citizens.

30. A number of international conferences during the previous year had appealed to the international community to increase its pressure on Pretoria in order to bring about an early end to the apartheid regime and to create the conditions for negotiating the structures of a democratic society. Of particular significance were the decisions of the African Summit Conference, held in January 1991, the Islamic Summit Conference, held in December 1991, and the Meeting of Foreign Ministers of the Non-Aligned Countries, held at Accra in September 1991.

31. The Secretary-General of the United Nations had suggested that the international community should adopt a three-pronged approach to the situation in South Africa, namely, encouragement, pressure and assistance. First of all, it should encourage the parties by welcoming the positive changes introduced by the South African regime with a view to achieving the aim of eradicating apartheid; secondly, it should apply pressure to ensure that the aspirations of the black majority for justice and equality were achieved and, thirdly, it should provide assistance to all democratic institutions, both inside and outside South Africa, that were working to put an end to apartheid.

32. His Government took the view that an over-hasty lifting of sanctions against South Africa might endanger the action taken to pressure South Africa towards reform and might encourage those extremists seeking to preserve the status quo and thus jeopardize the process of national reconciliation initiated by the Government. In that connection, he wished to draw attention to the proposal by President De Klerk at the opening of the 1992 session of the South African parliament that a new constitution should provide for formal participation in parliament by the black majority while reserving for the white minority the right of veto over legislative proposals.

33. His delegation urged the Government of South Africa to respect the provisions of the international human rights instruments and to facilitate visits to the country by the special rapporteurs and experts appointed by

the Commission. It would be particularly helpful if invitations were extended to the Ad Hoc Working Group of Experts and to Mr. Khalifa, the Sub-Commission's Special Rapporteur.

34. There were still many difficulties in the way of establishing a new society in South Africa and the elimination of the remaining foundations of apartheid would not be easy. The Government of South Africa should dedicate itself to that task and should implement its promises to respect international human rights conventions and standards. Without being excessively optimistic, his Government was heartened by the process of change taking place there.

35. In the fight to end racial discrimination, there was need for greater coordination between the various United Nations bodies working in that field. It was also important that the international community should support the United Nations programmes, particularly the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination. A new framework was needed for that Programme of Action so as to reflect international developments and the changes that were taking place in the forms of racial discrimination.

36. Mr. GONZALES (International Indian Treaty Council) said he wished to stress how important it was for indigenous peoples that the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination should be implemented. The meeting of experts held at Nuuk, Greenland, in September 1991 to review the experience of countries in the operation of schemes of internal self-government for indigenous peoples had been a milestone in the United Nations endeavour to address the question of autonomy and self-government for indigenous peoples. The report on that meeting (E/CN.4/1992/42 and Add.1) should be used as a working tool by forums and assemblies of indigenous peoples to prepare for their meetings with Governments.

37. In connection with paragraph 17 of that document, however, he expressed concern that the Government of Nicaragua was going ahead with plans to give a Taiwanese lumber company a government concession of 375,000 hectares of prime rain forest. The central Government of Nicaragua was also formulating long-term development plans for the coast region without notifying the autonomous governments or consulting the region's inhabitants.

38. In Panama, indigenous peoples in the San Blas region were facing oppressive actions by the current Government. United States troops were continuing military manoeuvres there, intimidating the population. The United States must not be allowed to interfere in the self-government process of the autonomous peoples.

39. It should not be forgotten in that connection that the United States was a country in which racism had been institutionalized. The history books of that country contained virtually no reference to indigenous cultural history. Racism was rampant, as could be seen in the high percentage of people of colour, especially Indians, in the prison population and among those living below the poverty line.

40. Ms. JOHM (Gambia) said that it was the Commission's task to work towards achieving implementation of article 1 of the Universal Declaration of Human Rights, especially in South Africa. Her Government reiterated its condemnation of the continuing violation of civil, political, economic, social and cultural rights that occurred under the system of apartheid. Although positive changes had indeed taken place in South Africa over the past 12 months, more reforms were needed before the people of South Africa could fully enjoy all their basic human rights. The international community must continue to exert pressure on the Government of South Africa until all apartheid legislation was repealed and racial discrimination made illegal.

41. The recent positive developments in South Africa should not blind the Commission to the unsatisfactory human rights situation still prevailing there. The death penalty was still being imposed, restrictions were still placed on freedom of expression, a number of apartheid provisions were still in force, and vigilante groups were still active, often with the participation of elements of the South African security forces. Nothing short of a new and truly democratic constitution would safeguard the human rights of all South Africans.

42. Her delegation was also concerned that the Government of South Africa continued to refuse to allow the Ad Hoc Working Group of Experts to visit the country. It was to be hoped that, in the future, the South African authorities would cooperate with the Commission by authorizing such visits.

43. Mr. DIENG (International Commission of Jurists), speaking on behalf of 30 other non-governmental organizations as well as his own, said that, since the forty-seventh session of the Commission, a resurgence of discrimination, prejudice against national, ethnic and religious minorities, national extremism and xenophobia had resulted in enormous loss of life and great suffering. The reappearance of anti-Semitism on a scale not seen in Europe since the end of the Second World War was an additional cause for concern.

44. The dramatic confrontation between rival national groups in Yugoslavia and in certain republics of the former Soviet Union, as well as in Somalia, testified to the immediate dangers of that phenomenon. The incitement to religious hatred and the propagation of fundamentalist doctrines were equally alarming phenomena which threatened the stability of many Governments in Africa.

45. Whereas, in the past, the Commission had understandably focused its attention under the current agenda item on racism and racial discrimination in southern Africa, racism and xenophobia were currently afflicting many regions of the world. Recent manifestations of the phenomena had been observed in Europe, North America and South-East Asia, notably East Timor and Myanmar.

46. Extremist nationalism, in the form of xenophobic violence against refugees and migrant workers, also gave cause for concern, as did the alarming success of extremist political parties of a virtually neo-Fascist and neo-Nazi character, which took advantage of democratic rights and freedoms to undermine the fabric of democratic institutions.

47. The Commission must take effective action against such phenomena before they degenerated into massive human rights violations. The NGOs he was representing called upon the Commission to request all Governments to implement, as a matter of urgent priority, the international human rights standards contained in the Universal Declaration of Human Rights, the International Human Rights Covenants, the International Convention on the Elimination of All Forms of Racial Discrimination and all other applicable human rights instruments. Governments must, in accordance with their obligations and commitments, outlaw racial discrimination and xenophobia and ban the creation of any political movement or association which proclaimed such doctrines. The NGOs he was representing appealed to the Commission to adopt a consensus resolution to ensure that human rights were protected by the rule of law.

The meeting rose at 11.25 a.m.